

EXHIBIT 1

INTRODUCTION

Douglas Ferrarelli is a former state employee, who worked for the Office of Statewide Health Planning and Development (“OSHPD”), in the Facility Development Division (“FDD”), as a Senior Structural Engineer, from June 1, 1993 until April 23, 1997. As a Senior Structural Engineer, Respondent Ferrarelli reviewed and approved applications and plans for building project permits issued to hospitals, skilled nursing homes and other healthcare facilities, to ensure that the projects satisfied state building codes and regulations.

On April 25, 1997, after leaving his state position, Respondent Ferrarelli accepted employment, as a Regional Construction Manager, with Catholic Healthcare West – West Bay Region (“CHW-West Bay”). In this position, Respondent Ferrarelli was responsible for submitting permit applications and plans for building projects to the OSHPD-FDD on behalf of CHW-West Bay’s medical facilities.

Respondent Ferrarelli violated the provisions of the Political Reform Act that restrict the activities of former designated employees of state administrative agencies. Within one year of leaving his position with OSHPD-FDD, and for compensation, Respondent Ferrarelli signed permit applications submitted to his former agency on behalf of CHW-West Bay, for the purpose of influencing the review and approval of building permits for his employer’s medical facilities.¹

For the purposes of this Stipulation, Respondent’s violations of the Political Reform Act (the “Act”)² are stated as follows:

COUNT 1: On or about and between November 5, 1997 and March 3, 1998, within one year of leaving state employment, and for compensation, Respondent Douglas Ferrarelli signed permit applications submitted to his former state agency, the Office of Statewide Health Planning and Development– Facility Development Division, on behalf of his new employer, Catholic Healthcare West – West Bay, for the purpose of influencing the review and approval of building permits for Seton Medical Center, in violation of Section 87406.

COUNT 2: On or about and between December 4, 1997 and February 2, 1998, within one year of leaving state employment, and for compensation, Respondent Douglas Ferrarelli signed permit applications submitted to his former state agency, the Office of Statewide Health Planning and Development – Facility Development

¹ This case was initiated by a report the Enforcement Division received from the State Auditor – Bureau of State Audits (“BSA”) summarizing their investigations of improper governmental activities by state employees conducted between February 1, 1998 and June 30, 1998. One of the investigations concerned Respondent Ferrarelli, and alleged violations of Government Code section 87406.

² The Political Reform Act is contained in Government Code Sections 81000 through 91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000 et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Division, on behalf of his new employer, Catholic Healthcare West – West Bay, for the purpose of influencing the review and approval of building permits for Saint Francis Memorial Hospital, in violation of Section 87406.

COUNT 3:

On or about and between December 17, 1997 and January 26, 1998, within one year of leaving state employment, and for compensation, Respondent Douglas Ferrarelli signed permit applications submitted to his former state agency, the Office of Statewide Health Planning and Development– Facility Development Division, on behalf of his new employer, Catholic Healthcare West – West Bay, for the purpose of influencing the review and approval of building permits for St. Mary’s Medical Center, in violation of Section 87406.

SUMMARY OF THE LAW
COUNTS 1 - 3

For a period of one year after leaving state employment, the Act prohibits certain officials from being paid to communicate with or appear before their former agency for the purpose of influencing administrative or legislative action, or a specified action or proceeding involving a permit, license, grant, contract or the sale of goods or property.

Section 87406, subdivision (d)(1) provides, in pertinent part:

“No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.”

The foregoing statute is commonly referred to as the "one-year ban" prohibiting state employees from communicating with their former agency to influence the agency's administrative or legislative action, or certain actions involving, among other things, permits. The Act also contains a “permanent ban” restricting former state employees from participating in a specific proceeding, for

compensation, that involves their new employer and the State of California, when the former state employee worked on the same proceeding while in state service. (Sections 87400-87405).

SUMMARY OF THE FACTS

COUNTS 1 - 3

Respondent Douglas Ferrarelli worked for the OSHPD-FDD, as a Senior Structural Engineer, from June 1, 1993 until April 23, 1997. The position of Senior Structural Engineer is listed as a designated employee in the conflict of interest code for the OSHPD.

The OSHPD-FDD functions as a statewide building department responsible for reviewing plans and specifications, and issuing permits, for the construction, alteration, and addition to hospital buildings and skilled nursing facilities in California. The agency also observes hospital construction activities in the field to ensure compliance with the provisions of the California Building Standards Code, Title 24, California Code of Regulations. The duties of the OSHPD-FDD include reviewing plans and design details of the architectural, structural, mechanical, plumbing and electrical systems for medical facility construction projects in California, prior to the issuance of building permits.

In his capacity as a Senior Structural Engineer for OSHPD-FDD, Respondent Ferrarelli was responsible for the structural review of plans, specifications, and other supporting documents for hospitals, skilled nursing homes and other healthcare facility construction projects. His review determined whether the construction plans and documents submitted by the medical facilities were in compliance with state building codes and regulations.

On or about April 17, 1997, Respondent Ferrarelli requested and was granted a one-year leave of absence from his position with the OSHPD-FDD. Respondent Ferrarelli's last day of work with the OSHPD-FDD was April 23, 1997. The leave of absence was not effective until June 12, 1997, because Respondent used his accumulated state leave balances from April 24, 1997 through June 11, 1997.³

Respondent Ferrarelli stated he was not aware, nor was he ever advised by OSHPD-FDD staff, of the conflict of interest provisions or laws restricting the activities of former state employees at the time he left state service and thereafter. In a sworn statement, Respondent maintained that he was not aware of these restrictions until contacted by investigators from the Bureau of State Audits, who conducted an investigation in this matter, and Commission staff.

Respondent's immediate supervisor, Kurt Schaefer, Deputy Director of the OSHPD-FDD, stated that he routinely suggested that departing employees speak with the agency's counsel to discuss activities prohibited by conflict of interest laws, but Mr. Schaefer could not confirm that he actually instructed Respondent Ferrarelli to do so when leaving the agency. OSHPD's counsel, David Keast, gave a sworn statement that he met with Respondent Ferrarelli, and advised Respondent that for one year after leaving state service, he should not attempt to influence the OSHPD in general,

³ Although his leave of absence expired on June 11, 1998, Respondent Ferrarelli never returned to state service. Respondent's last day of paid employment with the state was June 11, 1997, when all of his leave balances were used.

or contact OSHPD staff regarding issues related to his new employer. However, there is no documentary evidence that this meeting took place.

On April 25, 1997, after leaving state employment, Respondent Ferrarelli accepted employment with Catholic Healthcare West – West Bay Region (“CHW-West Bay”) as a Regional Construction Manager.⁴ In this position, Respondent Ferrarelli was responsible for submitting applications, plans and specifications for building project permits to the OSHPD-FDD for review and approval on behalf of the five hospitals operated by CHW-West Bay. Within one year of leaving state employment, Respondent Ferrarelli signed and submitted building permit applications and forms to the OSHPD-FDD on behalf of CHW-West Bay and its hospitals, as set forth below.

According to the BSA report, OSHPD-FDD staff members stated that there was no indication that Respondent Ferrarelli attempted to influence their review or approval of any of the projects for CHW-West Bay.

Count 1 **Seton Medical Center**

Between November 5, 1997 and March 3, 1998, Respondent submitted building permit applications and forms to OSHPD-FDD regarding building projects at Seton Medical Center, located in Daly City. The projects involved the installation of a rooftop cellular antenna, the remodeling of the human resources department, and the anchoring of cabinets. At the time, Respondent was employed by, and receiving compensation from, CHW-West Bay, which operated Seton Medical Center.

The permit applications and forms signed by Respondent Ferrarelli, as the agent of Seton Medical Center, are written communications to his former agency that were made, for compensation, and within one year of leaving state employment, with the intent to influence the issuance of building permits, in violation of Section 87406.

Count 2 **Saint Francis Memorial Hospital**

Between December 4, 1997 and January 30, 1998, Respondent submitted building permit applications and forms to OSHPD-FDD regarding building projects at Saint Francis Memorial Hospital, located in San Francisco. The projects involved the remodeling of the radiology department and the installation of fire doors at the hospital. At the time, Respondent was employed by, and receiving compensation from, CHW-West Bay, which operated Saint Francis Memorial Hospital.

The permit applications and forms signed by Respondent Ferrarelli, as the agent of Saint Francis Memorial Hospital, are written communications to his former agency that were made, for

⁴ CHW-West Bay is a division of Catholic Healthcare West, a health care system that operates 42 acute care hospitals in California. CHW-West Bay operates five hospitals in the San Francisco Bay area, which include St. Mary’s Medical Center and Saint Francis Memorial Hospital in San Francisco, Seton Medical Center in Daly City, Seton Medical Center Coastsides in Moss Creek, and Sequoia Hospital in Redwood City.

compensation, and within one year of leaving state employment, with the intent to influence the issuance of building permits, in violation of Section 87406.

Count 3
St. Mary's Medical Center

Between December 17, 1997 and January 26, 1998, Respondent submitted building permit applications and forms to OSHPD-FDD regarding building projects at St. Mary's Medical Center, located in San Francisco. The projects involved the replacement of operating room sterilizers and the installation of staff lockers. At the time, Respondent was employed by, and receiving compensation from, CHW-West Bay, which operated St. Mary's Medical Center.

The permit applications and forms signed by Respondent Ferrarelli, as the agent of St. Mary's Medical Center, are written communications to his former agency that were made, for compensation, and within one year of leaving state employment, with the intent to influence the issuance of building permits, in violation of Section 87406.

CONCLUSION

Respondent's actions, in violating the "one year ban" by communicating with his former state agency, are serious violations that occurred on several occasions over a period of six months. However, the written communications were required in order for CHW-West Bay's hospitals to secure building permits from Respondent's former agency. In prior enforcement actions involving violations of the Act's "one year ban" or "permanent ban," former employees' actions produced a direct financial gain for their new employer, by securing government contracts or grants, or by obtaining substantial tax refunds. In this matter, Respondent's actions, although necessary to secure the required government building permits, did not produce a direct financial gain for Respondent or his new employer, although his employer benefited by obtaining the permits requested.

In further mitigation, Respondent has consistently maintained, and given sworn testimony, that he was not aware of the prohibitions restricting state employees' representation of their new employer before their former agency. Respondent stated that he would have refrained from signing building permit applications and submitting them to the OSHPD-FDD for the one year period, if he had been aware that there was a legal requirement not to do so. Although agency counsel gave sworn testimony that Respondent was counseled about the conflict of interest laws and restrictions concerning former state employees, Respondent has consistently denied that he met with OSHPD-FDD counsel or other staff about these provisions. Furthermore, there is no documentary evidence that a meeting between Respondent and agency counsel took place.

According to the BSA report, the OSHPD-FDD further stated that there was no indication that Respondent Ferrarelli attempted to influence the OSHPD-FDD's review or approval of CHW-West Bay's projects during the one-year period after he left state employment. Respondent Ferrarelli stated that he did not attempt or intend to influence his former agency in any manner other than to sign building permit applications and forms, and that he had no communication with his former agency other than through these signatures.

In addition, Respondent Ferrarelli cooperated with this investigation, and has not previously been found to have violated the Act.

This matter consists of three counts, which carry a maximum possible administrative penalty of Six Thousand Dollars (\$6,000.00). The facts of the case, including the mitigating factors discussed above, justify imposition of the agreed upon administrative penalty of Thirty Five Hundred Dollars (\$3,500.00).